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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/613,548

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James A. Stevens

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12/18/2006

COATS & BENNETT, PLLC

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RALEIGH, NC 27602

EXAMINER

LE, TAN

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 12/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,548

Applicant(s)

STEVENS ET AL.

Examiner

Tan Le

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-55 is/are pending in the application.
- 4a) Of the above claim(s) 24-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-13, 16, 18-23, 34, 35, 37-46 and 50-55 is/are rejected.
- 7) ☒ Claim(s) 14-15, 17, 36 and 47-49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to Applicant's amendment filed 3/29/06, which contains claims, numbered 1-9 and 11-55. Claim 10 has been canceled. Claims 24-33 were withdrawn.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18, 37, 44 and 50-55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18, 37, 44 and 50-55 are rejected because there is inconsistency between the language in the preamble and certain portions in the dependent claim, thereby making the scope of the claim unclear. Applicant is required to clarify what the claim is intended to be drawn to i.e, either an assembly (claim 1) or a tower reinforcing system (claims 34 and 45) alone or the combination of the assembly or the tower reinforcing system and the existing tower and the language of the claim be consistent with the intent. The claims in this office action will be treated as a subcombination in view of the statement of record filed on 6/13/05 that the claims are not direct combination but rather to the reinforcing system itself (subcombination only) (Pages 17-18 of the Remarks).

Claim Rejections - 35 USC § 102

3. Claims 1-3, 9, 16, 18-23, 34, 37, 39-46 and 50-55 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,108,996 to McGinnis.

As to claims 1-3, McGinnis teaches an assembly (31) (Fig. 1) for reinforcing an existing tower, the assembly comprising: a plurality of reinforcing legs (33) (only one leg shown), see (Fig. 1) having a bearing plates (considers bearing plate element 61, 63) (Fig. 5) (at the end of reinforcing leg) (see also col. 2, lines 36-47)), and a plurality of braces (lacings (35)) (see also col. 2, lines 13-20).

As to claim 9, wherein one or more of the reinforcing legs each comprise a rigid leg having bearing plates at opposing ends (considers one of the bearing plates 61, 63 for connecting between legs 33 to form an extended length reinforcing leg along a desired portion of a leg of the existing tower).

As claim 16, wherein the reinforcing legs each comprise one or more rigid reinforcing leg sections, and wherein consecutive reinforcing leg sections of a given reinforcing legs are rigidly interconnected to achieve a desired length.

As to claim 18, the reinforcing legs each comprise a corner member (angled plate). Note that the recitation of "a corner member that wraps a round adjacent tower faces " is not considered part of the claim, therefore it also reads on Mc Ginnis.

As to claims 19-20, wherein the braces include mounting points (at 37, 39) (Fig. 1) that align with one of more of the mounting holes in the corresponding mounting faces of the pairs of reinforcing legs.

Art Unit: 3632

Regarding claim 21, further comprising a guy pull-off accessory (89, 99) (for example) (fig. 6) configured to mount to a reinforcing leg rather than to a leg of the existing tower.

Regarding claim 22, McGinnis further comprising a boom gate mount (143) for example (see Fig. 9) configured to mount to a reinforcing leg rather than a leg of the existing tower.

Regarding claim 23, wherein the reinforcing legs also comprise lengths of angled plate material.

Claims 34, 37, 39, 40, 41, 42 and 43, 44, 45, 46, 47 and 50-55, recited limitations similar to those recited in claims 1-3, 9, 16 and 19-23, are therefore also disclosed by McGinnis. Note that claims 37, 44 and 50-55 recited the combination with the existing tower, which is not considered as part of the claims, therefore these claims also read on McGinnis.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 5-6, 7-8, 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGinnis.

As to claims 5-6, McGinnis teaches substantially as claimed as discussed above except for the cross braces sections that can be adjustable by having brace section

Art Unit: 3632

joined by sleeve nuts. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the brace section adjustable by having section members joined by sleeve nuts, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Stevens, 101 USPQ 284 (CCPA 1954)

As to claims 7-8 and 38, McGinnis also does not specifically teach the plurality of reinforcing legs comprising a set of reinforcing legs and the plurality of braces comprising a set of braces. It would also have been obvious to one having ordinary skill in the art at the time the invention was made to provide a set or sets of reinforcing legs or braces (or plurality of sections joint together), since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. Nerwin v. Erlichman, 168 USPQ 177, 179.

Claims 12-13, 35, 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGinnis in view of US Patent No. 6,745,539 to Heim.

As to claims 12-13 and 35, McGinnis teaches substantially as claimed as discussed above except for each bearing plate comprising substantially flat plate attached normal to a long axis of the reinforcing leg to which it is mounted and wherein the bearing plate includes one or more mounting holes to align with existing bolt holes in a leg flange at a section joint of the existing tower.

Heim teaches bearing plate(s) (14, 16, 20, 22) comprising substantially flat plate attached normal to a long axis of the reinforcing leg to which it is mounted and wherein

Art Unit: 3632

the bearing plate includes one or more mounting holes to align with existing bolt holes in a leg flange at a section joint of the existing tower.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a flat bearing plate attached normal to a long axis of the reinforcing leg wherein the bearing plate include one or more mounting holes to align with existing bolts in a leg flange as in Heim in order to permit interconnection of abutting bearing plates on consecutive reinforcing legs positioned along an existing tower to form an extended length.

As to claims 4 and 11 to provide the reinforcing legs with shim joints for accommodating tower dimensional variance by adjusting nominal length of the reinforcing legs would also have been considered an obvious to one having ordinary skill in the art at the time the invention was made to since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Stevens, 101 USPQ 284 (CCPA 1954)

Allowable Subject Matter

5. Claims 14-15, 17, 36 and 47-49 are objected to, but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 3/09/06 have been fully considered but they are moot in view of the new grounds of rejection. Accordingly, this action is made NON-Final.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tan Le
December 8, 2006.



ANITA KING
PRIMARY EXAMINER